

SENATE BILL NO. 520

INTRODUCED BY ELLIOTT, ELLINGSON, TESTER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INCOME TAXES; PROVIDING A RESIDENTIAL PROPERTY TAX REBATE; PROVIDING A REBATE OF PROPERTY TAXES PAID WITH RESPECT TO AN INDIVIDUAL'S PRINCIPAL RESIDENCE; PROVIDING FOR THE REBATE TO BE CLAIMED AS A REFUNDABLE CREDIT AGAINST INDIVIDUAL INCOME TAXES; PROVIDING A VOLUNTARY CHECKOFF FOR CONTRIBUTIONS TO THE SCHOOL GUARANTEE ACCOUNT; REVISING THE ELDERLY RESIDENTIAL PROPERTY TAX CREDIT TO PREVENT A DOUBLE RECOVERY; REVISING INDIVIDUAL INCOME TAX BRACKETS; LIMITING A FUTURE INCREASE IN THE CAPITAL GAIN CREDIT; AMENDING SECTIONS 15-30-103, 15-30-176, AND 15-30-183, MCA; AND PROVIDING AN EFFECTIVE DATE, ~~AND A~~ RETROACTIVE APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Residential property tax rebate -- definitions.** As used in [sections 1 and 2], the following definitions apply:

(1) "Dwelling" means a single-family dwelling or unit of a multiple-unit dwelling.

(2) "Gross rent" means gross rent as defined in 15-30-171.

(3) "Principal residence" means principal residence as used in section 121 of the Internal Revenue Code, 26 U.S.C. 121, except the term includes a residence not treated as a principal residence solely because the property is not owned by the taxpayer.

(4) "Property taxes" means Montana ad valorem taxes levied against a principal residence and as much of the surrounding land, not in excess of 1 acre, as is reasonably necessary for its use as a dwelling.

(5) "Rent-equivalent taxes" means 15% of the gross rent of a principal residence that is not exempt from tax during the year pursuant to Title 15, chapter 6, part 2.

(6) "Year" means the individual's tax year.

NEW SECTION. **Section 2. Residential property tax rebate -- eligibility -- amount.** (1) Subject to subsection (3), an individual who resides in Montana for at least 9 months of the year and occupies as the

individual's principal residence for at least 6 months of the year one or more dwellings in Montana as owner, renter, or lessee may claim a rebate of up to \$155 FOR TAX YEAR 2006 AND UP TO \$135 FOR TAX YEARS AFTER 2006 of the sum of the property taxes or rent-equivalent taxes paid by the individual for the principal residence.

(2) The rebate must be claimed as a credit against individual income taxes imposed pursuant to Title 15, section 30. If the amount of the rebate exceeds the individual's tax liability for the year, the department shall refund the excess to the individual.

(3) If more than one individual may claim the rebate with respect to the principal residence, the rebate must be allocated among the claimants by the ratio of the property or rent-equivalent taxes paid by each to the total taxes.

(4) The department may:

(a) disallow the rebate if it finds that the individual received title to the principal residence primarily for the purpose of receiving benefits under 15-30-171 through 15-30-179 or this section; and

(b) adjust gross rent to a reasonable amount if it determines:

(i) the landlord and tenant did not deal at arm's length; and

(ii) the gross rent is excessive.

NEW SECTION. Section 3. Voluntary checkoff for contributions to school guarantee account.

(1) Each individual taxpayer who is required to file an income tax return under this chapter and who is entitled to a refund may contribute to the school guarantee account, provided for in 20-9-622, by marking the appropriate box on the state income tax return.

(2) Money received under this section must be deposited in the school guarantee account after the department has deducted the amount necessary for the department to administer this section as provided in 15-30-153.

Section 4. Section 15-30-103, MCA, is amended to read:

"15-30-103. Rate of tax. (1) There must be levied, collected, and paid for each tax year upon the taxable income of each taxpayer subject to this tax, after making allowance for exemptions and deductions as provided in this chapter, a tax on the brackets of taxable income as follows:

(a) on the first \$2,300 of taxable income or any part of that income, 1%;

(b) on the next \$1,800 of taxable income or any part of that income, 2%;

(c) on the next \$2,100 of taxable income or any part of that income, 3%;

(d) on the next \$2,200 of taxable income or any part of that income, 4%;

(e) on the next ~~\$2,400~~ \$2,600 of taxable income or any part of that income, 5%;

(f) on the next ~~\$3,400~~ \$5,000 of taxable income or any part of that income, 6%;

(g) on the next \$8,000 of taxable income or any part of that income, 7%;

~~(g)(h)~~ on any taxable income in excess of ~~\$13,900~~ \$24,000 or any part of that income, ~~6.9%~~ 7.8%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that tax year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that tax year and must be used as the basis for imposition of the tax in subsection (1) of this section."

Section 5. Section 15-30-176, MCA, is amended to read:

"15-30-176. Residential property tax credit for elderly -- computation of relief. The amount of the tax credit granted under the provisions of 15-30-171 through 15-30-179 is computed as follows:

(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax billed less the sum of:

(a) the deduction specified in subsection (4); and

(b) the rebate allowed by [section 2].

(2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the sum of:

(a) the deduction specified in subsection (4); and

(b) the rebate allowed by [section 2].

(3) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:

(a) the amount of property tax billed on the owned portion of the homestead less the deduction specified in subsection (4); plus

(b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection (4); minus

(c) the rebate allowed by [section 2].

(4) Property tax billed and rent-equivalent tax paid are reduced according to the following schedule:

Household income	Amount of reduction
\$0 - \$999	\$0
\$1,000 - \$1,999	\$0
\$2,000 - \$2,999	the product of .006 times the household income
\$3,000 - \$3,999	the product of .016 times the household income
\$4,000 - \$4,999	the product of .024 times the household income
\$5,000 - \$5,999	the product of .028 times the household income
\$6,000 - \$6,999	the product of .032 times the household income
\$7,000 - \$7,999	the product of .035 times the household income
\$8,000 - \$8,999	the product of .039 times the household income
\$9,000 - \$9,999	the product of .042 times the household income
\$10,000 - \$10,999	the product of .045 times the household income
\$11,000 - \$11,999	the product of .048 times the household income
\$12,000 & over	the product of .050 times the household income

(5) For a claimant whose household income is \$35,000 or more but less than \$45,000, the amount of the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

Gross household income	Percentage of credit allowed
\$35,000 - \$37,500	40%
\$37,501 - \$40,000	30%
\$40,001 - \$42,500	20%
\$42,501 - \$44,999	10%
\$45,000 or more	0%

(6) The credit granted may not exceed \$1,000."

Section 6. Section 15-30-183, MCA, is amended to read:

"15-30-183. Capital gains credit. An individual taxpayer is allowed a credit against the taxes imposed by 15-30-103 in an amount equal to 1% of the taxpayer's net capital gains ~~for tax years 2005 and 2006 and 2% of the taxpayer's net capital gains for tax years beginning after 2006~~, as shown on the taxpayer's individual income tax return filed pursuant to 15-30-142. The credit allowed under this section may not exceed the

1 taxpayer's income tax liability."

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3 **NEW SECTION. Section 7. Codification instruction.** (1) [Sections 1 and 2] are intended to be
4 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 and 2].

5 (2) [Section 3] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions
6 of Title 15, chapter 30, apply to [section 3].

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8 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 2005.

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10 **NEW SECTION. Section 9. Retroactive applicability.** [This act] applies retroactively, within the
11 meaning of 1-2-109, to tax years beginning after December 31, 2004.

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13 **NEW SECTION. SECTION 10. CONTINGENT TERMINATION. [SECTION 3] TERMINATES ON JANUARY 1 OF THE**
14 **FIRST YEAR FOLLOWING THE IMMEDIATELY PRECEDING 2 TAX YEARS IN WHICH THE VOLUNTARY CHECKOFF RAISES LESS**
15 **THAN \$10,000 IN EACH OF THOSE 2 TAX YEARS.**

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